

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Lily Kim	Team: Squad #6	CCRB Case #: 201909579	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Saturday, 10/26/2019 3:00 AM	Location of Incident: East 86th Street and Lexington Avenue	Precinct: 19	18 Mo. SOL 4/26/2021	EO SOL 12/11/2021	
Date/Time CV Reported Sat, 10/26/2019 5:25 AM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Mon, 11/04/2019 11:06 AM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Adonis Long	02881	936972	TB DT04
2. POM Steven Wood	00577	947616	TB DT04

Officer(s)	Allegation	Investigator Recommendation
A.POM Steven Wood	Abuse: Police Officer Steven Wood threatened to arrest § 87(2)(b)	
B.POM Adonis Long	Force: Police Officer Adonis Long used physical force against § 87(2)(b)	
C.POM Adonis Long	Discourtesy: Police Officer Adonis Long spoke discourteously to § 87(2)(b)	
D.POM Adonis Long	Force: Police Officer Adonis Long used physical force against § 87(2)(b)	
E.POM Adonis Long	Force: Police Officer Adonis Long struck § 87(2)(b) with a baton.	

Case Summary

On October 26, 2019, § 87(2)(b) filed the following complaint with IAB under original log #2019-38991. On November 4, 2019, the CCRB received the complaint.

On October 26, 2019, at approximately 3:00 a.m., § 87(2)(b) was at the southbound 86th Street subway station turnstiles in Manhattan. He was drunk at the time. § 87(2)(b) did not have enough money for his subway fare and asked PO Steven Wood of Transit District 4 for help. PO Wood told him there were no free rides and that he could not help. PO Wood told § 87(2)(b) that if he started panhandling, he would arrest him (**Allegation A—Abuse of Authority, § 87(2)(g)**). Then PO Adonis Long of Transit District 4 entered through a service gate and told § 87(2)(b) to leave the subway station. § 87(2)(b) began to leave. PO Long pushed § 87(2)(b) in his chest (**Allegation B—Force, § 87(2)(g)**). After PO Long pushed § 87(2)(b), he asked if he was “fucking crazy, talking shit to a cop like that?” (**Allegation C—Discourtesy, § 87(2)(g)**). § 87(2)(b) continued to back away from PO Long. PO Long punched § 87(2)(b) on the left side of his face (**Allegation D—Force, § 87(2)(g)**). § 87(2)(b) continued to back away in the direction of the station’s exit. When he reached the staircase PO Long hit § 87(2)(b) in his left temple with a baton (**Allegation E—Force, § 87(2)(g)**). PO Long hit § 87(2)(b) and he fell. § 87(2)(b) got up and PO Long chased him out of the subway station and told him not to come back down. § 87(2)(b) called the police and an ambulance and was subsequently transported to § 87(2)(b). No arrests or summonses resulted from this incident.

MTA footage was obtained for this incident (**BR 01-02**). No BWC was obtained as the officers improperly did not turn on BWC. An allegation of Other Misconduct Noted was not added to this case as the Transit Bureau Investigation Unit already substantiated the failure to activate BWC for both officers in FI-2019-1139 (**BR 03**).

Findings and Recommendations

Allegation (A) Abuse of Authority: Police Officer Steven Wood threatened to arrest § 87(2)(b).

In camera 12, video 6 of the MTA footage between 3:22 a.m. and 3:24 a.m., five individuals walk to the turnstiles from the opposite exit. (This allegation is also captured in BR 21 between 2:11 minute mark to 4:11 minute mark of the recording).

§ 87(2)(b) testified (**BR 04**) that on October 26, 2019 at approximately 3:00 a.m., § 87(2)(b) was at the southbound 86th Street subway station turnstiles on his way home. § 87(2)(b) asked PO Wood, who stood behind the turnstiles, if he could help him because he was short in subway fare. PO Wood told him that he could not. § 87(2)(b) asked the MTA clerk if he would let him in. PO Wood told § 87(2)(b) that if he started panhandling, he would arrest him. § 87(2)(b) admitted that he was intoxicated at the time and used profanity toward PO Wood. PO Wood did not issue any other instructions or make any other threats. An unidentified female interjected herself into in § 87(2)(b)’s conversation with PO Wood. § 87(2)(b) told her to mind her business. PO Long exited the bathroom after the interaction with the female.

§ 87(2)(b) a transit employee at the 86th Street subway station, provided a phone statement (**BR 05**). He observed § 87(2)(b) ask PO Wood for a free ride. PO Wood refused. § 87(2)(b) screamed and cursed at the officer. § 87(2)(b) looked drunk or high because he was loud, angry

and looked a little red. § 87(2)(b) did not hear an officer threaten § 87(2)(b) with arrest for panhandling.

PO Wood testified (**BR 06**) that he observed § 87(2)(b) enter the station and asked PO Wood to let him in for free. PO Wood told § 87(2)(b) that he could not allow him in for free. PO Wood did not recall if he told § 87(2)(b) that he could be arrested for panhandling, or anything else. § 87(2)(b) was not panhandling. § 87(2)(b) behaved disorderly in that he was rude, loud, and he cursed at PO Wood. PO Wood did not tell § 87(2)(b) he had to leave the station or issue any commands. § 87(2)(b) did not show any signs that he would become physical toward PO Wood. After a short unspecified time, PO Wood chose to ignore § 87(2)(b) and an unidentified female came up to PO Wood. While PO Wood spoke with the female, § 87(2)(b) repeated his request to enter.

PO Long testified (**BR 07**) that he was in the subway station bathroom when he heard § 87(2)(b) try to gain entry for free. PO Wood told § 87(2)(b) that he needed to pay his fare or leave the station. When PO Long came out of the bathroom, PO Long and PO Wood repeatedly told § 87(2)(b) to leave, and § 87(2)(b) repeatedly requested entry. At some point during their verbal exchange, PO Wood told § 87(2)(b) that he could be arrested for panhandling. PO Long did not see § 87(2)(b) panhandling and did not tell him that he could be arrested for panhandling. § 87(2)(b) was repetitive and argumentative throughout the incident.

Transit Ejection Report # § 87(2)(b) (**BR 08**) noted that a § 87(2)(b), identified by the investigation as § 87(2)(b) was ejected from the 86th Street/Lexington Avenue station for begging and breach of peace.

No person shall solicit, ask or beg in an aggressive manner in any public place, including transportation facilities. “Aggressive manner” shall mean: (a) Approaching or speaking to a person, or following a person before, during or after soliciting, asking or begging, if that conduct is intended or is likely to cause a reasonable person to (i) fear bodily harm to oneself or to another, damage to or loss of property, or the commission of any offense as defined in section ten of the penal law upon oneself or another, or (ii) otherwise be intimidated into giving money or other thing of value, or (iii) suffer unreasonable inconvenience, annoyance or alarm; (b) Intentionally touching or causing physical contact with another person or an occupied vehicle without that person's consent in the course of soliciting, asking or begging; (c) Intentionally blocking or interfering with the safe or free passage of a pedestrian or vehicle by any means, including unreasonably causing a pedestrian or vehicle operator to take evasive action to avoid physical contact; or (d) Using violent or threatening gestures toward a person solicited. Any violation of the provisions of this section shall constitute a misdemeanor punishable by imprisonment for not more than sixteen days or by a fine not to exceed one hundred dollars, or by both, NYC Administrative Code 10-136 (**BR 09**).

No person shall panhandle or beg upon any facility or conveyance, MTA Rules of Conduct 1050.6 (b)(2) (**BR 10**).

The defendants, members of service of the Suffolk County Police Department, were enjoined from: (1) enforcing, or threatening or attempting to enforce, the now-repealed N.Y. Penal Law § 240.35(1) and (2) arresting, threatening or attempting to arrest, anyone for loitering, remaining, or wandering about for the purpose of begging. They were not enjoined from arresting individuals for violating other, valid sections of the Penal Law while panhandling, Jefferson v. Rose, 869 F. Supp. 2d 312, 2012 (**BR 12**).

A person is guilty of trespass when he knowingly enters or remains unlawfully in or upon premises, Penal Code 140.05 (BR 13).

§ 87(2)(g)

PO Wood stated that § 87(2)(b) did not panhandle, and PO Long stated that he did not observe § 87(2)(b) panhandling. § 87(2)(g)

However, it is undisputed that § 87(2)(b) requested free entry into the subway station, initially to the MTA clerk and then to PO Wood. § 87(2)(b) alleged that the threat of arrest occurred early in the interaction when he first made his request to PO Wood. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation (B) Force: Police Officer Adonis Long used physical force against § 87(2)(b)

In camera 12, video 6 of the MTA footage at 3:24 a.m., § 87(2)(b) takes large steps away from the turnstiles, toward the booth. As § 87(2)(b) continues to walk away past the booth, he says something over his shoulder to PO Long who follows one or two steps behind § 87(2)(b). PO Long pushes § 87(2)(b) from behind with both hands, out of the camera frame. PO Wood follows, a few steps behind them. (This allegation is also captured in BR 21 starting at the 5:00 minute mark of the recording)

§ 87(2)(b) testified that PO Long entered through a service gate and told him to leave the subway station. § 87(2)(b) began to leave and then PO Long pushed him in his chest once or twice with both hands. § 87(2)(b) continued to back away from PO Long. § 87(2)(b) continued to back away in the direction of the subway station's exit.

§ 87(2)(b) stated that another officer, identified via investigation as PO Long, joined PO Wood and walked towards § 87(2)(b). PO Long told § 87(2)(b) that he "better get out of the station." Both officers went through the turnstiles and approached § 87(2)(b) and told him to leave the subway station. § 87(2)(b) slowly backed away while facing the officers. Initially § 87(2)(b) stated he saw an officer push § 87(2)(b) but then he clarified that the officer walked towards § 87(2)(b) with his arms in front of his own chest and told § 87(2)(b) to leave. They did not make physical contact at that point. As § 87(2)(b) walked backwards up the stairs, PO Long bumped his chest with § 87(2)(b) who then slipped.

PO Long testified that § 87(2)(b) repeatedly requested free entrance and was argumentative throughout the incident. PO Long and PO Wood likely told § 87(2)(b) to leave as many as twenty to thirty times during the five-minute interaction. § 87(2)(b) started to walk away from the turnstiles, but he would stop abruptly after taking a couple of steps backwards. To maintain distance and since § 87(2)(b) kept stopping abruptly, PO Long pushed § 87(2)(b) on the chest. PO Long also placed his hand on § 87(2)(b)'s arm to direct him out of the station. PO Long was shown MTA surveillance footage. PO Long stated that at this point in the interaction, § 87(2)(b) still refused to leave, so PO Long pushed him out. PO Long explained that he pushed § 87(2)(b) because he stopped repeatedly. PO Long pushed § 87(2)(b) more than once but did not know exactly how many times he pushed § 87(2)(b).

PO Wood testified that when PO Long exited the bathroom, he crossed to the opposite side of the turnstiles and told § 87(2)(b) that he had to leave the station because he was being disorderly. PO Wood followed PO Long to the other side of the turnstiles and just stood there. PO Wood did not recall if PO Long pushed § 87(2)(b). PO Wood did not remember if § 87(2)(b) objected to leaving the station after he was told to. PO Long got close to § 87(2)(b) but PO Wood did not know how close. § 87(2)(b) backed up toward the staircase exiting the station. PO Wood did not remember if § 87(2)(b) took any actions to indicate a refusal to leave. PO Wood was shown MTA surveillance footage of PO Long pushing § 87(2)(b). The video did not refresh PO Wood's recollection. During the ejection, PO Wood did not have any safety concerns for himself or PO Long. PO Wood did not remember if § 87(2)(b) was compliant with PO Long's command for him to leave.

Force may be used when it is reasonable to ensure the safety of a member of service or third person, or otherwise protect life, or when it reasonable to place a person in custody or to prevent escape from custody. In all circumstances, any application or use of force must be reasonable under the circumstances. If the force used is unreasonable under the circumstances, it will be deemed excessive and in violation of Department policy. **Patrol Guide 221-01 (BR 14)**.

§ 87(2)(g)

[REDACTED]

§ 87(2)(g)

§ 87(2)(g)

Allegation (C) Discourtesy: Police Officer Adonis Long spoke discourteously to § 87(2)(b)

§ 87(2)(b) testified that after PO Long pushed him, PO Long asked § 87(2)(b) if he was “fucking crazy talking shit to a cop like that.”

§ 87(2)(b) did not hear this comment.

PO Long testified that he did not state to § 87(2)(b) that he was “fucking crazy talking shit to a cop like that.” PO Long did not recall if he or PO Wood used any profanity with § 87(2)(b)

PO Wood did not recall if PO Long made this statement or used any profanity with § 87(2)(b)

The MTA video footage did not contain audio.

§ 87(2)(g)

Allegation (D) Force: Police Officer Adonis Long used physical force against § 87(2)(b)

Allegation (E) Force: Police Officer Adonis Long struck § 87(2)(b) with a baton.

§ 87(2)(b) testified that PO Long punched him on the left side of his face as he walked toward the exit. When he reached the staircase, PO Long hit § 87(2)(b) in his left temple with a baton and § 87(2)(b) fell. § 87(2)(b) was not certain about the order in which PO Long pushed him a second time, punched him and hit him with a baton. § 87(2)(b) got up and PO Long chased him out of the subway station and told him to not come back down.

§ 87(2)(b) stated that as § 87(2)(b) walked backwards up the stairs, PO Long bumped his chest with § 87(2)(b) who then slipped. § 87(2)(b) did not see an officer hit § 87(2)(b) in the head with a baton or punch § 87(2)(b)

PO Long testified that his interaction with § 87(2)(b) lasted for approximately five minutes. PO Long did not punch § 87(2)(b) on the side of his face. PO Long did not pull out his baton. PO Long did not use his baton to hit § 87(2)(b) on his head or anywhere else on his body.

PO Wood testified that he did not see PO Long use any force. PO Long did not punch § 87(2)(b) on the side of his face at any point. PO Long removed his baton from his belt and used it to point as he told § 87(2)(b) to leave the station. PO Long did not strike § 87(2)(b) on the head with the baton. PO Long had his baton out for a minute or less. PO Wood did not remember where PO Long and § 87(2)(b) were when PO Long had the baton out.

TRI TINC #§ 87(2)(b) (BR 15) noted that § 87(2)(b) was interviewed, and he stated that PO Long used his baton to point and direct § 87(2)(b) out of the station. § 87(2)(b) was unavailable to the investigation.

None of the video footage obtained from MTA depicted an officer punching or hitting § 87(2)(b) with a baton, and there are no cameras near the stairs. There was no BWC captured of the incident.

§ 87(2)(b)'s medical records from § 87(2)(b) noted that he felt the presence of pain/discomfort (BR 16). The clinical indication on the order chart was head trauma. The history of present illness objective statement noted that § 87(2)(b) had some dizziness and pain to the left side of his head but did not experience any other symptoms. The medical records do not include a visual assessment of § 87(2)(b)'s head. He was prescribed Tylenol and discharged after declining a CT scan. The medical records from § 87(2)(b) (BR 17) noted that there was no sign of head injury. The Pre-Hospital Care Report noted that there § 87(2)(b) did not have any bruising, swelling or bleeding where he stated he was hit.

§ 87(2)(b) alleged that PO Long punched and struck him with a baton on the head. § 87(2)(b) PO Long, and PO Wood all denied that PO Long punched or struck § 87(2)(b) in the head with a baton. PO Long did not have his baton out in the MTA footage, and none of the footage captured an officer punching § 87(2)(b) or striking him in the head with a baton. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) has been a party (BR18).
- PO Long has been a member of service for 15 years and has been a party to nine allegations and five other CCRB complaints, none of which have been substantiated. § 87(2)(g)
- PO Wood has been a member of service for 12 years and has been party to nine allegations and six other CCRB complaints, none of which have been substantiated. § 87(2)(g)

Mediation, Civil and Criminal Histories

- This case was unsuitable for mediation.
- § 87(2)(b)
- As of July 8, 2020, the New York City Office of the Comptroller has no record of a Notice of Claim being filed regarding this complaint (BR 20).

Squad No.: 6

Investigator: Lily Kim Investigator Lily Kim 2/5/2021
Signature Print Title & Name Date

Squad Leader: Jessica Peña IM Jessica Peña 11/13/2020
Signature Print Title & Name Date

Reviewer: _____
Signature Print Title & Name Date